United Food and Commercial Workers Union Local 1439, chartered by United Food and Commercial Workers International Union, AFL–CIO, CLC *and* Food City West. Case 19–CB–3986, 19–CB–4007, 19–CB–4008, and 19–CB–4045

June 21, 1982

DECISION AND ORDER

BY CHAIRMAN VAN DE WATER AND MEMBERS JENKINS AND HUNTER

On February 25, 1982, Administrative Law Judge Richard J. Boyce issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and brief and has decided to affirm the rulings, findings,[1] and conclusions of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, United Food and Commercial Workers Union Local 1439, chartered by United Food and Commercial Workers International Union, AFL–CIO, CLC, Spokane, Washington, its officers, agents, and representatives, shall take the action set forth in the said recommended Order.

[1] In sec. V,B, par. 3(b), of his Decision, the Administrative Law Judge found that Respondent's president, Harrigan, dismissed all of Food City's proposals as nonmandatory subjects of bargaining because he saw them as "take-aways," and, therefore, that Respondent's posture was based on a legal misconception. In so finding, the Administrative Law Judge relied on his earlier observation in sec. V,A, par. 8, that Harrigan testified that all Food City's proposals "were what we consider to be take-aways, or nonmandatory subjects of bargaining." The record shows, however, that Harrigan explained immediately afterwards that, in referring to nonmandatory subjects, he was only talking about the change in the bargaining unit and the accretion issue. Therefore, in adopting the Administrative Law Judge's conclusion that Respondent did not bargain in good faith, we do not rely on his finding that Respondent's posture was based on a legal misconception.

DECISION

STATEMENT OF THE CASE

RICHARD J. BOYCE, Administrative Law Judge: This matter was heard before me in Yakima, Washington, on October 20, 1981. The charges were filed between January 5 and February 20, 1981, all by Food City West (herein called Food City). The complaint issued February 27, was amended April 7 and October 1, and alleges that United Food and Commercial Workers Union, Local 1439, chartered by United Food and Commercial Workers International Union, AFL–CIO, CLC (herein called Respondent), violated Section 8(b)(1)(B) and (3) of the National Labor Relations Act, as amended (herein called the Act).

I. JURISDICTION

Food City is a proprietorship consisting of Robert and Shirley Bellinghausen, husband and wife, engaged in the operation of a retail grocery store in Yakima. The enterprise realizes annual gross revenues in excess of $500,000, and annually purchases directly from suppliers outside Washington, or from suppliers inside Washington who purchased supplies directly from outside the State of Washington, goods of a value exceeding $50,000.

Food City is an employer engaged in, and affecting, commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. THE LABOR ORGANIZATION

Respondent is a labor organization within the meaning of Section 2(5) of the Act.

III. ISSUES

The complaint alleges that Respondent violated Section 8(b)(3) on January 2, 1981, by "threaten[ing] Food City . . . with economic action if [it] did not agree to the Area Agreement," and by "enter[ing] into negotiations with Food City . . . with a representative . . . who had no authority to deviate from the terms of the Area Agreement or to consider requests or proposals from Food City"; and on and after January 2 by "refus[ing] to deviate from the terms of the Area Agreement in negotiations with Food City."

The complaint further alleges that Respondent violated Section 8(b)(1)(B) and (3) on January 14, 1981, by "attempt[ing] to negotiate with Food City . . . directly, bypassing [its] representatives"; and on January 20 and February 17 by "refus[ing] to meet and bargain with Food City . . . unless and until" its designated representatives "ceased to act as [its] . . . agent[s] for such purposes."

The complaint alleges, finally, that Respondent violated Section 8(b)(1)(B) and (3) on and after January 3, 1981, by conducting a strike against Food City which was in furtherance of and prolonged by its other misconduct.

IV. THE ALLEGED UNFAIR LABOR PRACTICES

A. *Facts*

The Bellinghausens took over Food City on July 1, 1978; and, on July 15, signed a collective-bargaining agreement with Retail Store Employees, Local No. 631, covering Food City's sales and food-handling employ-

ees.[1] The agreement bore an expiration date of April 15, 1980, and was identical to a 3-year agreement entered into in 1977 between Local No. 631 and Allied Employers (herein called Allied), a multiemployer association representing various grocery operations in the Yakima area.

By letter dated January 21, 1980, Sean Harrigan, then president of Retail Clerks Union, Local No. 1612, into which Local No. 631 since had merged, notified Food City that, "we wish to open the agreement for changes in hours, wages, benefits and conditions." A duplicate letter presumably was sent to Allied as well.

In March 1980, Local No. 1612 merged into Respondent, with Harrigan becoming Respondent's president. Respondent and Allied devoted the next several months to the negotiation of an area agreement to supplant that entered into in 1977 between Allied and Local No. 631. A new agreement was ratified on September 26, 1980. It provides for retroactivity to April 15, and has an expiration date of July 16, 1983. While it was being negotiated, Charles Fields, a business agent for Respondent, visited the Food City store every 2 weeks, or so, informing Robert Bellinghausen of the status of negotiations "on two or three occasions." There is neither contention nor evidence that Allied was speaking for Food City in those negotiations.

A day or so after ratification of the new area agreement, Fields left a copy of an interim agreement at the Food City store; then, about a week later during a return visit, asked Bellinghausen to sign it pending the printing of the new area agreement. Bellinghausen refused to sign until he could see "a full contract." That was acceptable to Fields, who said he would provide a copy "as soon as one [is] available."

On or about December 17, Fields delivered three copies of the area agreement to Bellinghausen, asking that he sign two copies. Fields testified that the copies had not been available previously because a printing error necessitated their being redone. Bellinghausen said he could not sign a document "of that length without first discussing it with some legal counsel." Fields said that that would be "fine," and that he would "check back" in a few days. On Fields' return, on December 22, Bellinghausen told him that he would not sign the area agreement; that he and his attorney had "worked up a list of proposals and changes" that Food City "wanted in the contract." Bellinghausen tendered the list, in writing. Fields responded that this was "very unusual," and that, while he did not have the authority to negotiate concerning the list, he would bring it to Harrigan's attention.

The list proposed these departures from the area agreement:

1. Deletion of the future-stores or accretion clause, and explicit exclusion from the unit not only of supervisory employees, but those "cooking and preparing food and catering such food."[2]
2. Deletion of the article providing pay for jury duty.
3. Limiting eligibility for health-and-welfare coverage to employees "regularly scheduled twenty-four (24) hours per week or more," as opposed to the requirement in the area agreement of 60 hours per month for single coverage and 80 hours per month for family coverage.
4. Participation in individual retirement accounts for the employees, in lieu of participation in the Retail Clerks Pension Trust Fund.
5. Elimination of retroactivity.

Fields presently discussed the list with Harrigan, who told him it was unacceptable in all its particulars. Fields also met with eight of Food City's employees to go over the list. They "were very unhappy" with it, according to Fields, and voted to strike, should it be necessary, to induce Food City to sign the area agreement.

On the morning of January 2, 1981, Harrigan telephoned Bellinghausen, announcing that the employees had rejected Food City's proposals and that, if it "stood firm" in its refusal "to sign the area agreement," there would be a strike the following morning. Harrigan elaborated that all of Food City's proposals "were what we consider to be take-aways, or nonmandatory subjects of bargaining"; and, being "deviations from the areawide agreement, were simply not acceptable." Harrigan continued that, if Respondent were to make an exception for Food City, there would be "200 little agreements out" in a year's time.

Bellinghausen responded that he "would like to sit down and meet with" Harrigan and "at least discuss the issue." Harrigan replied, "Well, if you want a meeting, you can have the meeting, and I'll have Chuck Fields there." Bellinghausen, who years before had been a union business agent, asked if Fields would have "full authority to negotiate." Harrigan answered, "Yes, whatever Chuck says goes." A meeting, accordingly, was set for 3 p.m. that day at the store.

Harrigan then telephoned Fields, informing him of the meeting and telling him that Respondent "could not deviate from the area contract" because Food City's proposals "were all take-aways." Harrigan added that unless Food City agreed that afternoon to sign the area agreement Respondent "would immediately pull the employees out on strike." Harrigan in addition "outlined to [Fields] the union's objection to each one of those [Food City] proposals."

Fields and Bellinghausen met the afternoon of January 2 as arranged. Also present were Food City's attorney, Gary Lofland, Shirley Bellinghausen, and a second union official, Ann Sears. They reviewed each of Food City's proposals, with Fields stating Respondent's objections as they had been expressed to him by Harrigan. More generally, Fields said that Respondent would not "deviate from the areawide contract because it would be taking [away] benefits," and because "everybody had always just signed whatever the area agreement was." That prompted Robert Bellinghausen to remark that Harrigan had said Fields would have the same negotiating authority that he had. Fields said he was "unaware of that" and

[1] That this is an appropriate unit for purposes of the Act is not disputed.

[2] In addition to operating a conventional grocery store, Food City had a prepared-food department consisting of two employees. Fields testified that these employees were not in the unit under the old agreement.

that he did not "even know what [he was] doing here." While he had "observed" two or three negotiations, Fields never before had acted as Respondent's spokesperson.

The meeting ended with Fields saying he had discussed the situation with the employees, and that Respondent intended to institute "economic action" the next day if Food City was "firm" in its position. Bellinghausen asked if he could have "two or three days to kind of think this thing over." Fields, although indicating that he could not, said he would "check once more with the employees" and would "get back to" Bellinghausen by 5 p.m.

Fields thereupon conferred with six of the employees, after which he informed Bellinghausen by telephone that there would be picketers "in the morning." True to his word, picketers appeared the morning of January 3 at 7, and have been at the store daily ever since, at least to the time of hearing.

On January 14, Michael Wright, an organizer for Respondent, appeared at the office in the Food City store, said his name was "Craig," and asked to see Bellinghausen "privately." Upon being invited in, he identified himself to Bellinghausen as "a certified problem solver"; then asserted that, while Food City's attorneys charged $60 per hour, he could solve the "whole problem . . . for 50 bucks." With that, Wright presented Bellinghausen with two copies of the area agreement, asking that he sign it. Bellinghausen asked, "You're a union employee, aren't you?" Wright answered, "I didn't say that." He then was told to leave. After doing so, he began picketing.

Wright testified that he "thought it was going to be funny" to do this, and that he was not acting on orders from his superiors. He had not been involved in Respondent's dealings with Food City before this time.

On or about January 20, Harrigan telephoned Bellinghausen stating that he was to be in Yakima the next day with time to spare, and wanted to "sit down and talk." Bellinghausen replied that he would "have to get back to" Harrigan after ascertaining Lofland's availability. Bellinghausen called Lofland, upon learning that Lofland would not be free until the following Monday, he called Harrigan back conveying that information. Harrigan said he would not be free again for 2 or 3 weeks, prompting Bellinghausen to suggest that he contact Lofland directly to set a meeting. Harrigan said he would.

That night, however, Harrigan called Bellinghausen again, reporting that he had not called Lofland and asking that Bellinghausen meet with him just the same. Harrigan said they would not "have to call it 'negotiations.'" Bellinghausen challenged, "What else would you call it?" Harrigan answered, "Well, we'll just sit down and talk." Bellinghausen persisted that counsel had to be present. Harrigan replied that he, "personally," would not meet with Lofland but that perhaps Don Zachary, Respondent's secretary-treasurer, would. Explaining his refusal to meet with Lofland, Harrigan testified:

> My dealings with that law firm have been very, very poor. I feel that law firm engages in nothing more than union busting, and I, personally, will not meet with a law firm that engages in that type of activity.

On January 30, Zachary telephoned Lofland. Lofland told him the strike could be settled if Respondent "would drop [its] outrageous demands for retroactivity." Zachary responded that they "could possibly work out arrangements whereby it would be paid back over a period of time." Lofland said he would discuss that with the Bellinghausens, ending the conversation.

On February 17, Bellinghausen returned Zachary's telephone call. Zachary proposed that the two of them meet "on a one-to-one basis." Bellinghausen said he would meet "any time, but not without counsel." Zachary, noting that Harrigan "just has a bad taste in his mouth" for anybody from Lofland's office, countered:

> [W]e just want to sit down, just two old grocery boys, and have a nice chat. We don't have to call it "negotiations"; we'd just like to clarify our position, and clarify your position . . . . We don't need lawyers around. We never use lawyers in our negotiations. They just kind of mess things up.

Bellinghausen questioned if it would not be an unfair labor practice, "your wanting me to meet you without counsel, since counsel has already been introduced into the case." Zachary persisted that he failed to see why Bellinghausen could not see his way clear "to sit down and talk out our problems." Bellinghausen iterated that Food City would meet "at any time, but not without counsel."

In the immediate aftermath of the exchange just described, Lofland sent this letter, dated February 19, to Harrigan and Zachary:

> All further contact with the above named employer [Food City] shall be made through this office. Any desire to establish a date to negotiate shall be made through this office. No attempts shall be made to communicate with the owners of Food City West or to attempt to persuade them to negotiate without a member of this office. The Bellinghausens are unwilling to negotiate with representatives of your union without a member of this office being present.
>
> If you have any questions regarding this letter, do not hesitate to contact me.

On March 27, the first of three bargaining sessions was held, all at Respondent's request. Lofland and the Bellinghausens were present for Food City. Zachary and a business agent, Aileen Galloway, appeared for Respondent. Zachary summarized the area agreement, and proposed that Food City sign it. He stated that while he "had the authority to deviate from the area agreement if he chose," he saw "no reason why [Food City] should have a contract different from the other employers in the area." He added that he was "not about to give up any gain which had already been earned" by Respondent in its negotiations with Allied. Zachary demanded that the new agreement be retroactive to April 15, 1980, and that

Food City reinstate the strikers, terminating their replacements to create openings.

Zachary did not bring to the March 27 meeting a copy of Food City's proposals, given to Fields on December 22. Lofland supplied him with another copy. The meeting was not without minor progress. Food City agreed that the name of the union in any new agreement would reflect Local No. 631's having been superseded by Respondent through the merger process, and that the minimum interval between shifts for a given employee would be increased from 8 to 10 hours.

The second session was April 16. Those present March 27 attended, as did a State of Washington mediator.[3] As Lofland recalled, the meeting "got hung up on the question of reinstatement of the striking workers," precluding discussion of other issues. Zachary demanded, as before, that the replacements be terminated and the strikers reinstated, qualifying that, if business conditions rendered reinstatement of all the strikers economically nonfeasible, those not reinstated should be recalled by seniority as conditions permitted. Lofland opposed the termination of replacements, stating that Food City could agree only to place the strikers on a preferential rehire list, recalling them "as openings arose." Zachary, terming this a "serious obstacle" to settlement, declared that there was "no point in meeting further," and the session adjourned.

On May 1, Zachary telephoned Lofland, proposing that Food City sign the area agreement; that the strikers receive retroactive pay from April 15, 1980, to the January 3, 1981, strike onset, the agreement otherwise to be effective as of the date of signing; and that, instead of terminating the replacements to permit reinstatement of the strikers, the strikers be placed "on layoff status" so they would qualify for unemployment benefits until such time as openings arose. Lofland said he would discuss this with the Bellinghausens.

The third bargaining session took place June 3. Those present April 16, including the mediator, participated. Respondent proposed in writing that Food City drop its proposals and sign the area agreement; that Food City make the health and welfare and pension funds whole on behalf of the strikers through December 1980; that Food City make the strikers whole for vacation time accrued to the date of the strike; that the strikers receive retroactive pay from April 15, 1980, to the strike's onset; that the strikers for whom no openings existed "due to permanent replacements" be placed "on layoff status," Food City being under "no obligation to recall" them; and that the "parties drop all litigation."[4]

Food City counterproposed, also in writing, agreeing with Respondent's proposals concerning payment into health and welfare and pension funds and for vacation time, striker reinstatement, and the dropping of "all current litigation." Food City further proposed to pay retroactive wages of $100 to each full-time employee on strike, and $50 to each striking part-time employee; that there be an National Labor Relations Board election to determine if the employees desired continued representation by Respondent; and that the picketers "be removed pending outcome of election."

Respondent answered with a second written propoeal, which differed from its earlier one only by specifying that retroactive wages "in the amount of $700 [be paid] to all strikers." Lofland informed the mediator, upon digesting this proposal, that it was "basically" Respondent's position all along and that "it would just be a waste of time to meet any further." With that, the meeting ended.

Zachary thereafter telephoned Lofland, requesting another meeting. Lofland stated that Food City "had to have a written proposal showing [Respondent's] areas of movement" before he would agree to meet. Zachary protested that Lofland was "imposing an intolerable condition"; that meaningful bargaining cannot take place "by phone or through the mails." Lofland replied, "If that's your position, we just can't meet."

There has been no subsequent contact between the parties.

B. *Conclusions*

It is settled that "a union may adopt a uniform wage policy and seek vigorously to implement" it among several employers in an area, and otherwise legitimately can strive "to obtain uniformity of labor standards."[5] So doing, however, it is not exempted from the obligation to bargain in good faith—determination of which "involves a finding of motive or state of mind . . . similar to the inquiry whether an employer discharged an employee for union activity."[6]

The requisite good faith has been defined variously as "a desire to reach ultimate agreement, to enter into a collective-bargaining contract";[7] "a willingness to negotiate toward the possibility of effecting compromise";[8] a "willingness among the parties to discuss freely and fully their respective claims and demands and, when these are opposed, to justify them on reason";[9] and "the serious intent to adjust differences and to reach an acceptable common ground."[10] Good faith is "inconsistent with a

[3] It was Respondent's idea to bring in a mediator. It initially had sought someone from the Federal Mediation and Conciliation Service, which declined to become involved because of the smallness of the unit and "budgeting problems."

[4] In addition to filing the present charges, Food City had obtained a court order enjoining mass picketing by Respondent and had sued for monetary damages.

[5] *United Mine Workers of America* v. *Pennington*, 381 U.S. 657, 665–666 (1965). See also *Local 1115, Joint Board, Nursing Home & Hospital Employees Florida Division (B & K Investments, d/b/a Krest View Nursing Home)*, 248 NLRB 1234, 1241 (1980); *Chauffeurs, Teamsters and Helpers, Local Union No. 301, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Merchants Moving and Storage Inc.)*, 210 NLRB 783, 787–788 (1974); *Utility Workers Union of America, AFL–CIO and its Locals Nos. 111, 116, 138, 159, 264, 361, 426, 468, 478, and 492 (Ohio Power Company)*, 203 NLRB 230, 239 (1973).

[6] *N.L.R.B.* v. *Reed & Prince Manufacturing Company*, 205 F.2d 131, 139–140 (1st Cir. 1953). See, generally, *Graphic Arts International Union, Local 280 (Samuel L. Holmes and James H. Barry Company)*, 235 NLRB 1084, 1094–96 (1978).

[7] *N.L.R.B.* v. *Insurance Agents' International Union, AFL–CIO* [*Prudential Ins. Co.*], 361 U.S. 477, 485 (1960).

[8] *Associated General Contractors of America, Evansville Chapter, Inc.* v. *N.L.R.B.*, 465 F.2d 327, 335 (7th Cir. 1972).

[9] *N.L.R.B.* v. *George P. Pilling & Son Co.*, 119 F.2d 32, 37 (3d Cir. 1941).

[10] *Wal-Lite Division of United States Gypsum Company*, 200 NLRB 1098, 1101 (1972), enforcement denied 484 F.2d 108 (8th Cir. 1973).

predetermined resolve not to budge from in initial position";[11] "requires more than a willingness to enter upon a sterile discussion of union-management differences," yet does not demand that a party "engage in fruitless marathon discussions at the expense of frank statement and support of his position"[12] and is not satisfied by "the mere willingness of one party in the negotiations to enter into a contract of his own composition."[13]

It is concluded that Respondent, in its dealings with Food City, evinced a state of mind failing to satisfy these formulations. This conclusion is based on this aggregate of considerations:

(a) In support of his January 2 insistence to Bellinghausen that Food City sign the area agreement, Harrigan cited the extrinsic consideration that, otherwise, there would be "200 little agreements out" in a year's time.

(b) By dismissing Food City's proposals as "nonmandatory subjects of bargaining" because he saw them as "take-aways," Harrigan revealed both the absoluteness of Respondent's posture and that it was premised on a legal misconception.

(c) Without so much as a nod to the processes of negotiation, Harrigan threatened Bellinghausen the morning of January 2 that there would be a strike the next day if Food City "stood firm" in its refusal "to sign the area agreement."

(d) Similarly, Harrigan told Fields that same morning that Respondent "could not deviate from the area contract"; and that, unless Food City agreed to sign that afternoon, Respondent "would immediately pull the employees out on strike."

(e) The purported bargaining session the afternoon of January 2—the only one before the strike—was sheerest formality. Fields, Respondent's spokesperson, never before had functioned in that role, admittedly did not "even know what [he was] doing here," and concededly was "unaware" that he had "authority to negotiate." Moreover, during or after what was, at most, a perfunctory review of substantive issues, Fields echoed Harrington's earlier declaration that Respondent would not "deviate from the areawide contract" and would institute "economic action" the next day unless Food City capitulated.

(f) On January 3, as threatened and after only the one token meeting, Respondent called the employees out on strike.

(g) Respondent in three instances attempted to circumvent Food City's chosen spokesperson—first, when Michael Wright sought to induce Bellinghausen to sign the area agreement by presenting himself as "a certified problem solver" on January 14; then, when Harringan and Zachary tried on January 20 and February 17, respectively, to convince Bellinghausen to meet "on a one-to-one basis" by disparaging Lofland and cajoling that "we don't have to call it 'negotiations.'"

(h) Zachary, in his meetings with Food City, was unyielding that it sign the area agreement.

By thus failing to comport with the statutory requirement of good faith, Respondent's multifaceted effort to impose the area agreement on Food City, including the strike, violated Section 8(b)(3); and its threats to strike and striking, in addition, had the effect of coercing Food City to select Allied to be its representative for bargaining purposes, violating Section 8(b)(1)(B).[14]

ORDER[15]

The Respondent, United Food and Commercial Workers Union Local 1439, chartered by United Food and Commercial Workers International Union, AFL-CIO, CLC, Spokane, Washington, its officers, agents, and representatives, shall:

1. Cease and desist from:

(a) Refusing to bargain in good faith, on request, with Food City West concerning the terms and conditions of employment of the employees in this appropriate unit:

> All employees of Food City West handling or selling merchandise, excluding supervisory employees within the meaning of Section 2(11) of the Act.

(b) Threatening to strike, striking, and/or picketing Food City West with an object of forcing it to sign the area agreement between Respondent and Allied Employers, thereby restraining or coercing Food City West in the selection of its representative for purposes of collective bargaining.

(c) In any like or related manner interfering with, restraining, or coercing employees or Food City West in the exercise of rights guaranteed by the Act.

2. Take the following affirmative action designed to effectuate the policies of the Act:

(a) Upon request, bargain collectively in good faith with Food City West with respect to wages, hours, and other terms and conditions of employment of the employees in the above-described unit, and, if agreement is reached, embody its terms in a signed document.

(b) Post at its offices and meeting halls, copies of the attached notice marked "Appendix."[16] Copies of said notice, on forms provided by the Regional Director for Region 19, after being duly signed by an authorized representative of Respondent, shall be posted by it immediately upon receipt thereof, and be maintained by it for 60

[11] *N.L.R.B.* v. *Truitt Mfg. Co.*, 351 U.S. 149, 154 (1956) (separate Frankfurter opinion).

[12] *N.L.R.B.* v. *American National Insurance Co.*, 343 U.S. 395, 402, 404 (1952).

[13] *U.S. Gypsum Co., supra*, 200 NLRB 1101.

[14] *Hotel and Restaurant Employees and Bartenders Union, Local 2, Hotel and Restaurant Employees and Bartenders International Union, AFL-CIO (Zim's Restaurants Inc.)*, 240 NLRB 757, 761 (1979); *Laborers' Local Union No. 652 Laborers' International Union of North America, AFL-CIO (Thoner & Birmingham Construction Corp.)*, 238 NLRB 1456, 1461-62 (1978); *Retail Clerks Union, Local 770 Retail Clerks International Association, AFL-CIO (Fine's Food Co.)*, 228 NLRB 1166, 1170 (1977).

[15] All outstanding motions inconsistent with this Order hereby are denied. In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

[16] In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

consecutive days thereafter, in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken to ensure that said notices are not altered, defaced, or covered by other material.

(c) Furnish to said Regional Director sufficient signed copies of said notice for posting by Food City West, should it be willing, at those places where notices to employees are customarily posted.

(d) Notify the Regional Director for Region 19, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply.

APPENDIX

NOTICE TO MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, as amended, and has ordered us to post this notice.

WE WILL NOT refuse to bargain in good faith, on request, with Food City West concerning the terms and conditions of employment of the employees in this appropriate unit:

All employees of Food City West handling or selling merchandise, excluding supervisory employees within the meaning of Section 2(11) of the Act.

WE WILL NOT threaten to strike, strike, and/or picket Food City West with an object of forcing it to sign the area agreement between us and Allied Employers, thereby restraining or coercing Food City West in the selection of its representative for purposes of collective bargaining.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees or Food City West in the exercise of rights guaranteed by the Act.

WE WILL, upon request, bargain collectively in good faith with Food City West with respect to wages, hours, and other terms and conditions of employment of the employees in the above-described unit, and, if agreement is reached, embody its terms in a signed document.

UNITED FOOD AND COMMERCIAL WORKERS UNION LOCAL 1439, CHARTERED BY UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION, AFL-CIO, CLC